IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

Crl.MC.No. 2812 of 2007()

PETITIONER: ACCUSED NO.4:

V.B. MOHAMMED KUTTY, S/O. BAPPU,
RESIDING AT VATTAPARAMBIL HOUSE, P.O. KADANGODU,
VIA. KUNNAMKULAM, THRISSUR DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: COMPLAINANT/STATE:

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1. SUB INSPECTOR OF POLICE,
KONDOTTY POLICE STATION, KONDOTTY,MALAPPURAM DIST.

2. SUPERINTENDENT OF POLICE,
CRIME BRANCH, PALAKKAD.

3. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2812 Of 2007

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Dated this the 13th day of September, 2007

ORDER

The petitioner's passport is now surrendered before the learned Magistrate as per a condition imposed on him at the time of grant of bail. By order dated 17th July, 2007 in Crl.M.C.No.2058 of 2007, the said passport was directed to be returned to the petitioner to enable him to travel to his place employment abroad and return. The history of the case has been referred in that order. This order must be read in continuation of the said order. The petitioner had duly complied with the direction to return to India and surrender the passport to the learned Magistrate.

2. The petitioner has now come before this Court with a prayer that his passport may again be released to him to enable him to undertake a journey to Malasia ín connection with his business. Appropriate terms and conditions may be issued in favour of the petitioner, it is prayed. The final report against the petitioner has not been filed yet. The petitioner shall return to India and surrender the passport back before the learned Magistrate, as and when, directed by this Court. The petitioner's right of movement may not be fettered by on continued retention of the passport before the learned Magistrate.

3. The learned D.G.P who has himself appeared, vehemently opposes the prayer. The learned D.G.P submits that Investigators apprehend that the petitioner may not return to India if passport is released to him and he is permitted to go out of the country.

4. The final report has not been filed yet. There is no specific idea as to the day by which the said final report shall be filed. The petitioner has complied with the directions in the order dated 17.7.07. in Crl.M.C.No. 2058 of 2007 and I am satisfied that the present request of the petitioner can also be granted subject to identical conditions as were imposed on him when the passport was earlier released to him as per order dated 17.07.07. Not withstanding the opposition of the learned DGP I am satisfied that the passport can be released to the petitioner subject to conditions.

5. In the result this petition is allowed. The passport of the petitioner which is kept in the custody of the learned Magistrate shall now be released on him on the following terms and conditions:

i) He shall execute a bond for Rs.10 lakhs (Rupees ten lakhs only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate, undertaking to produce the passport back before the learned Magistrate within a period of 45 days from the date of its release. In the bond he should specifically undertake to do the same.

ii) the petitioner shall furnish to the learned Magistrate address of the person in India to whom notice issued by the learned Magistrate must be served to intimate him of any further proceedings in the case.

iii In the facts and circumstances of the case, the learned Magistrate must scrupulously insist and ensure that the sureties offered are sufficient and solvent.

iv) The date on which the petitioner leaves India shall be intimated to the Investigating Officer as also the date on which he returns to India and surrenders the passport before the learned Magistrate .

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE